

CITY ITEMS

Charles Nagle was convicted of stealing bank notes. Penitentiary two months.
Ann Moore was convicted of stealing a pocket-book.

Mark Howland was convicted of stealing a bridle. Penitentiary two months.

Ann McAuliff was convicted of stealing a silver watch and vest chain. Penitentiary two months.

David R. Thompson was convicted of stealing two pieces of lace. Penitentiary six months.

Thomas Durley was convicted of stealing a coat. Penitentiary six months.
Hannah O'Connell was convicted of stealing bank bills. City Prison 30 days.
Michael McGrath was convicted of an assault and battery on his wife. Penitentiary three months.
Ann Connelly was convicted of an assault and battery on Theresa Teubrock. Penitentiary two months.
James Remison was convicted of an assault and bat-

Thomas Madigan was convicted of an assault and battery on John Bennett. Fined \$25.
Esterline Abraham was convicted of an assault and battery on Pass Appleton. Fined \$5.
John Schneider was convicted of an assault and battery on Caroline Ellenbach.
Hannah Davis was convicted of an assault and battery on Eliza O'Neil. Judgment suspended.
Lewis Sanders was convicted of an assault and battery on S. J. Deida. Judgment suspended.
Walter Hece was convicted of an assault and battery on Jerry Bates. Judgment suspended.

James Cramer was convicted of an assault and battery on Margaret Hurley. Judgment suspended.

Harvey Lappat was convicted of an assault and battery on Charles McKimley. Judgment suspended.

Myron H. Smith was convicted of an assault and battery on Charles Pohl. Judgment suspended.

Philip Koch was convicted of an assault and battery on Samuel Brunswick. Judgment suspended.

Catharine Conroy was convicted of an assault and battery on Joseph Lyons. Judgment suspended.

John Rogers was convicted of an assault and battery on Annie Kuehn. Remanded for sentence.

Henry Abbott pleaded guilty to an assault and battery on William F. Smith. Remanded for sentence.

Wm. Matt Pica of CHURCH, BRANDELL and BRANDELL

on Louisa Metzger. Peremptory 2 months.
 Benjamin C. Thompson pleaded guilty to an assault and battery on Mary Jane Thompson. Judgment suspended.
 William Gallagher pleaded guilty to an assault and battery on his wife. Judgment suspended.
 Daniel Heegan pleaded guilty to an assault and battery on his wife. Judgment suspended.
 William Boyd pleaded guilty to an assault and battery on Edward Dowling. Judgment suspended.
 John Connell, James Leary, Daniel Connell and Michael Conway, pleaded guilty to an assault and battery on Joseph Black. Judgment suspended.

THE HOWARD-STREET HOMICIDE.
TRIAL OF DANIEL CUNNINGHAM FOR THE AL-
LEGED MURDER OF PATRICK M'LAUGHLIN.
COURT OF GENERAL SESSIONS.—June 22.—*Before*
Recorder BARNARD.
At the opening of Court yesterday, ex Judge Whit-
taker commenced summing up in the case of Cuning-
ham for the murder of Patrick McLaughlin. He
spoke for two hours, elaborately reviewing the evi-

The justification set up for the mania, that it was necessary in the necessary self-defense of the prisoner.

The evidence having been finished, it became the turn of the State to present its case.

of the Court, previous to the case being brought submitted to you, to lay down for your guidance those legal principles which are applicable to the case, and the definitions of the various grades of crime of which the prisoner can be convicted, provided, in your judgment, the facts will warrant you in so doing. It is your duty to say whether or no the facts proved bring the case within any of the principles to be laid down for your governance.

of an excusable justifiable homicide, according to the facts and circumstances of each case. Such killing, unless it be manslaughter, or excusable or justifiable homicide, shall be murder, when perpetrated from a premeditated design to effect the death of the person killed. Murder, therefore, is the killing with malice. Any formed design to do a wicked or unlawful act may be termed malice. Malice is a deliberate, wicked temper; it can seldom be proved by express declarations, but must be inferred and collected from all the facts and circumstances of the case. The nature of the transaction and manner of the killing. Deliberate killing without passion, whatever may have been the provocation, (unless it was continued up to the time of the infliction of the fatal wound,) is murder—for if the prisoner was cool, self possessed, and master of his passion, and had the full control of his judgment, he must suffer for his conduct.

The law presumes that the natural and probable consequences of every act shall be taken into consideration in determining the guilt of the accused.

intended by the perpetrator, and the burden of proof to overthrow this presumption lies with the prisoner. If, therefore, a killing be proved to have been committed by the prisoner, and nothing further shown to the satisfaction of a Jury, excusing it, the presumption is that it was malicious, and an act of murder. The formation of an intent to take life a moment before the blow is inflicted is sufficient to constitute malice.

The statute provides that the killing of a human being is justifiable when committed by any person in the lawful defense of such person, when there shall be reasonable ground to apprehend a design to commit a felony, or to do some great personal injury, and there shall be imminent danger of such design being accomplished.

It is not necessary that a person should suffer himself to be dangerously beaten, with a prospect of its continuance, before the law would justify him in defending himself. The rule extends to those cases

where the party accused stands in imminent danger of death, or of great bodily injury at the hands of his assailant—he must not only have his man naked but must see some attempt on the part of his assailant to execute his design, or that he is in an

parent situation to do so, which would thereby reasonably induce him to think that he intended to execute his design immediately—in other words, the danger must be actual, imminent and urgent—no contingent necessity will avail. If the prisoner at the time of the firing of the pistol had grounds to believe that

the deceased intended to commit some great bodily harm upon him, and it is made to appear on the trial that he acted on that belief, and the jury are satisfied that these were reasonable grounds upon which to found an apprehension of such a design in the mind of the prisoner, then he would be justified.

benefit of such defense, it must appear that the party killing had retreated either as far as he could by reason of some wall or other impediments, or as far as the fierceness of the assault or the nature of the circumstances would admit. If it appear that the conflict was, in any way, sought by the prisoner, he is not

justified. If the attacks of the deceased had desisted, and the prisoner on his part renewed the conflict, then he is not justified. A person is not justified in returning blows with a dangerous weapon where there is attack with the naked hand, and there is no reason to apprehend a design to do him great mischief or homicide justified when the assault is not dangerous.

poorly harm, nor is domestic justice when the combat can be avoided, or when, after it is once commenced, the party can withdraw from it in safety before he kills his adversary. But if, gentlemen, you find, from all the circumstances attending this transaction, that the prisoner had no reason to believe that he was in danger of great bodily

injury at the hands of the deceased, but that an ordinary assault and battery was all that he had to fear from his acts and declarations; then he is not free from crime in the eyes of the law, but may be convicted of manslaughter. In settling this matter you are to look at the situation of the parties at the time, their ac-

ions and potions, their conversation, threats and menaces, as they may have been given before you. You can also consider their relative size, strength and physical powers. You must also look as to who committed the first assault; whether it was continued or stopped; whether there was any reasonable apprehension to believe it would be continued, and whether

the inequality of their size and strength would be equalized only by a pistol in the hands of either one. If you should come to the conclusion that under the evidence the prisoner cannot be convicted of murder, but is guilty of some crime, it then becomes necessary to look at the different degrees of manslaughter. Of

these there are four. In my judgment, the first and second cannot apply.

Manslaughter in the third degree is the killing of another in the heat of passion, without a design to effect death, by a dangerous weapon, except where such killing is either excusable or justifiable. Manslaughter in the fourth degree is the involuntary killing

of another by any weapon or by any means neither cruel nor unusual, in the heat of passion in any case, except it be excusable or justifiable. If, on an examination of this matter, you have a reasonable doubt, fairly deducible from the evidence, as to which of the degrees of manslaughter you should find the prisoner

guilty, you should give him the benefit of that doubt, and find a verdict under that degree about which you have no doubt. In order to find a verdict of guilty under any degree, the facts proved should exclude every other reasonable hypothesis except that of guilt. In this, as in nearly all trials, the witnesses have testified that the defendant was at the scene of the crime.

...at the occurrence. The truth or falsity of these facts